

THE
Further Depositions
AND
PROCEEDINGS
IN THE
House of Lords
In the AFFAIR of the
DUKE & DUTCHESS
OF
NORFOLKE.
WITH THE
BILL of DIVORCE.

LONDON,
Printed in the YEAR, 1692.



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*The Oath Administred to the Duke
of Norfolk's Witnesses, before
the Lords in Parliament.*

YOU shall true Answer
make to all such Questi-
ons as shall be askt you
by this Honourable House, in
Relation to the Charge of
Adultery, brought in by the
Duke of *Norfolk*, against the
Dutchess of *Norfolk*, with *John*
Germaine: You shall declare
your whole knowledge of this
Matter, and shall speak the
Truth, the whole Truth, and
nothing but the Truth, as well
upon

upon the Matter as you shall
 be Examined on behalf of his
 Grace the Duke of *Norfolk*, as
 upon such Interrogatories as
 shall be Exhibited on behalf of
 the Dutcheſs of *Norfolk*, with-
 out Favour or Affection to ei-
 ther Party. *So help you God, and
 by the Contents of this Book.*

Reasons

(5)

REASONS

Offer'd to the

Lords in Parliament

For Receiving the following

Bill of Divorce

On the Behalf of his Grace the
DUKE of NORFOLKE.

THE *not having a Sentence for
a Separation from the Eccle-
siastical Court, is thought to be no
Objection against the Receiving or
Passing the Duke of Norfolk's Bill,
for these Reasons; viz.*

I.

The House proceeds, in this
Case, in their Legislative, and

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in their Judicial Capacity ; and in their Legislative, all Things must proceed Originally , by Bill.

II.

That a Sentence in the Ecclesiastical Court, can give the Duke no Relief, as to what he seeks by his Bill. (6) To Dissolve his Marriage, and Enable him to Marry again ; but that Relief must spring originally from the *Parliament*, without relation to the *Ecclesiastical Court*.

III.

That in Case there was such a Sentence, yet it would afford no Assistance in this Case: For
the

the *Parliament*, in Cases of this Nature, do not rely upon any such Sentence, for a satisfactory Proof of the Fact; but hear Witnesses *viva voce*, and thereupon proceed.

IV.

That there are Witnesses now living, to prove the Fact, which may be Examined *viva voce*; whereas, if they *die* during the tedious Proceeding in any Inferiour Court, then there can be no other Proof, but *Depositions* taken in Writing.

V.

That Mrs. *Wharton's* Case was receiv'd Originally in *Parliament*.

The

The BILL brought into the House of Lords, by his Grace the Duke of Norfolk, for Dissolving the Marriage with the *Dutchess*, and to Enable him to Marry again; which was Read once, and afterwards Thrown out.

FORASMUCH *have any probable Expectation of Posterity as Henry Duke of Norfolk, and Earl Marshal of England, having been Married to the Lady Mary Mordant, hath made full Proof, that his said Wife, is Guilty of, and hath committed Adultery on her part: And forasmuch as the said Henry Duke of Norfolk, hath no Issue, nor can* *peccation of Posterity to Succeed him in his Honours, Dignities, and Estate, unless the said Marriage be declared void by Authority of Parliament, and the said Duke be enabled to Marry any other Woman. The King & Queens, most Excellent Majesties, upon the Humble Petition of the said Henry*

Henry Duke of Norfolke, having taken the Premises into their Royal Consideration, for divers weighty Reasons, are pleased, That it be Enacted; And be it Enacted by the King and Queens most Excellent Majesties, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That the said Marriage between the said Henry Duke of Norfolke, and the said Lady Mary his Wife, shall from henceforth be null and void; and is, by Authority of the Present Parliament, Declared, Adjudged, and Enacted to be null & void, to all Intents, Constructions, & Purposes whatsoever. And that it shall and may be lawful to, and for the said Henry Duke of Norfolke, at any time or times hereafter to contract Matrimony, and to Marry (as well in the Life-time of the said Lady Mary, as if she were Naturally dead) with any other woman or women, with whom he might lawfully marry, in case the said Lady Mary was not living. And that

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such

*such Matrimony when had, and celebrated, shall be a good, just & lawful Marriage; and so shall be adjudged, deemed, and taken, to all intents, constructions, and purposes. And that all & every Children, and Child, born in such Matrimony, shall be deemed, adjudged, and taken to be born in lawful Wedlock, and to be legitimate and inheritable; and shall inherit the said Dukedom of Norfolk, Office of Earl-Marshal of England, & all other Earldoms, Dignities, Baronies, Honours, and Titles of Honour, Lands, Tene-
 ments, and other Hereditaments, from and by their Fathers, Mothers, and other Ancestors, in like manner and form, as any other Child, or Children, born in lawful Matrimony, shall or may inherit, or be inheritable, according to the course of Inheritances us'd in the Realm: And to have and enjoy all privileges, preheminences, benefits, Advantages, Claimes, and demands, as any other Child, or Children, born in lawful Wedlock, may have or claim by the Laws or Customs of this Kingdom. And be it further enacted, That*

the said Henry Duke or otherwise, to and
 if Norfolke, shall be from any of their An-
 entituled to be Tenant cestors, as any other
 by Courtesie, of the Child or Children may
 lands and Inheritances do, any Law, Statute,
 of such Wife, whom he Restraint, Prohibition,
 shall hereafter marry: Ordinance, Canon, Con-
 And such Wife as he stitution, Prescription
 shall so marry, shall be or Custom, had, made,
 entitled to Dower of exercised, or used to
 the lands and Tene- the contrary of the Pre-
 ments, whereof the mises, or any of them
 said Henry Duke of in any wise, notwith-
 Norfolke shall be sei- standing. And be it
 zed of such estate, further enacted, by the
 whereof she shall be Authority aforesaid,
 dowable, as any other That the said Lady
 Husband or Wife may Mary shall be, and is
 or might claim, have hereby barred and ex-
 or enjoy; and the Child cluded of and from
 or Children born in all Power and Thirds,
 such marriage, shall and of and from all
 and may derive, and Right and Title of
 make Title, by descent Power and Thirds
 unto,

unto, or out of any of ny of her Ancestours,
 the honours, mannours, shall be from hence-
 lands, or hereditaments forth utterly void, and
 of the said Duke; and of none effect: And
 that all Conveyances, all and every the said
 Joyntures, Settlements honours, mannours,
 Limitations and Crea- lands or hereditaments
 tions of uses, and trusts of the said Duke, or
 of, into, or out of any any of his Ancestors or
 honours, mannours, Trustees, shall from
 lands or hereditaments henceforth remain and
 at any time heretofore be to and for the use
 made by the said Duke and benefit of the said
 or any of his Ancestors Duke, and such other
 or Trustees unto or up- person or persons, and
 on, or for the use or for such estates and
 benefit of the said La- interests, and in such
 dy Mary, or any Issue manner and form, as
 of her Body, or for ea- if the said Lady Mary
 sing, discharging, or was now naturally
 counter-securing any dead, without any Is-
 the mannours, lands, sue of her Body: And
 or hereditaments of the also, that all Limita-
 said Lady Mary, or a- tions and Creations of
 any

any use, estate, power of any the mannours,
 or trust made by any lands or hereditaments
 the ancestors of the said of any the Ancestors of
 Lady Mary unto or for the said Lady Mary,
 the use or benefit of shall be from hence-
 the said Duke, his forth void, and of none
 Heirs, or Assignes, out effect.

Depositions

Depositions: (14)

Robert Welbourne the Dutcheſſes Equipage; ſaith, That about for, ſays he, I hear She is the middle of No- ſetting up a great Equi- vember laſt, the Duke of page, and I deſire to be Norfolk ſent for him by free from being obliged Mr. Scott, to meet his to pay for any of that; Grace in his Room by he, the Witneſs, told his the Lords Houſe, which Grace, That he thought accordingly he did; his he was miſ-inform'd, for Grace told him, there had all the Equipage, he the been ſome Meſſages and Witneſs ſaw, was a Coach, Propoſals by Sir Robert a Coachman, two Foot- Clayton, and Sir Robert men, a pair of Horſes, and Howard, but he look'd two or three more Ser- on them both, to be Men vants: But ſays his Grace, of great Buſineſs, and I formerly paid Money could not attend upon for Her to one Mourton, ſuch Matters, and there- and ſhould be unwilling fore he ſent for him, the to do ſo again; I preſume Witneſs, knowing him to my Lord Duke, ſaid the be capable to underſtand, Witneſs, that was a Debt and willing to do any Ser- contracted while your vice between Us: The Grace and the Dutcheſs firſt thing his Grace de- liv'd together: But ſays ſired, was to acquaint his his Grace, My Wife has Wife, and the Lady Peter- ſome pretentions to *Caſtle borough*, and I think he *Riſing*, which I could ſell named the Lord *Peter- without her conſent, by borough*, that he expected looſing 2000, or 2500*l.* to be indemnified from and beſides, I very lately find

find, she hath also a pretention upon *Billing*, which I never knew till very lately, when I was upon Selling of that Reversion; but I should have been an ill Man to pretend to do that, if I had known of any such Incumbrance: Therefore I would have you tell my Wife, that if she will consent to the Sale of those Estates, and make me easie in that particular, let her consider wherein I may make her easie, and I shall do it: I know she was a great Lover of *Drayton*, and I suppose is so still, and She once offer me a considerable Sum of Money for my Life in it: Therefore, let her consider of this Matter, and if she can propose any thing for her ease and quiet on these Terms, I shall comply with her; I do not say it to Threaten

her; but I am told, that for the reason of there being either Twenty one, or Twenty two Catholick Heirs of my Family, before one Protestant one; If I would — (*here his Grace stopt*) Says his Grace, You understand me: *But he, the Witness, making no Answer, his Grace was pleased to say again, If I would bring a Bill of Divorce, I should obtain it on that Account: He the Witness, told his Grace, I should be sorry to hear of any such thing; but in Obedience to his Graces Commands, his would acquaint the Dutchess with it, and accordingly he did the same day, and Lady Peterborough both: Her Grace was very Angry at the Message, especially with that part that mentioned; and he the Witness was sent the next Morning to*
Mr.

Mr. Scott to desire him to acquaint the Duke, That as he was my Lord Peterborough's Secretary, it was not fit for him to receive nor bring such Messages; but if his Grace had any thing to say, it was most proper by a Servant of his own, or to send for one of her's: I carried the Message next Morning to Mr. Scott, and at my return Home, the Dutchess shewed me a Letter she had writ to the Duke to the same pur-

pose, and which was sent to his Grace, but not to him the Witness: The Dutchess did declare when the Witness proposed the Sale of *Castle-Rising* and *Billing*, as the Duke had desired, That she would never Consent By any of this Discourse it did not appear to him the Witness, that the Duke shewed any Inclinations to live with the Dutchess; nor did he the Witness understand it for

P O S T C R I P T.

THE Witnesses to prove several Matters of Fact in 1690. and 1691. were not Examined, the former being thought sufficient; only Mary Elliot being Interrogated by the Council, declared farther, That she saw Mr. Germain's T---d come from the Dutchess Reeking, slimy, and limber, casting his Sp---m about the Room.

F I N I S.